

### **REMARKS/ARGUMENTS**

This Amendment is being filed in response to the non-final Official Action of August 5, 2008, and following Applicants' response to a final Official Action of July 31, 2007. The present, non-final Official Action rejects Claims 1, 3-5, 8, 10-12, 15, 17, 18 and 19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2008/0153500 to Zhao et al. The Official Action then rejects Claims 2, 9 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Zhao, in view of U.S. Patent Application Publication No. 2005/0188406 to Gielow et al.; and rejects Claims 7, 14 and 21 as being unpatentable over Zhao, in view of U.S. Patent Application Publication No. 2005/0117595 to El-Beik et al. As explained below, however, Applicants respectfully submit that the claimed invention is patentable over Zhao, Gielow and El-Beik, taken individually or in any proper combination, and accordingly traverse the aforementioned rejections of the claims. Nonetheless, Applicants have amended the claims to further clarify the claimed invention, and added new Claims 22 and 23 to recite further patentable aspects of the present invention. In addition, Applicants have amended the specification to include information not available as of the filing of the present application. In view of the amendments to the specification and claims, the added claims and the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.

#### ***A. Dependent Claims 6, 13 and 20***

Initially, Applicants note the Official Action's failure to substantively treat dependent Claims 6, 13 and 20. Accordingly, Applicants presume that dependent Claims 6, 13 and 20 are allowable, and therefore respectfully request an indication of such in the next Official Action.

#### ***B. Claims 1, 3-5, 8, 10-12, 15, 17, 18 and 19 are Patentable***

The Official Action rejects Claims 1, 3-5, 8, 10-12, 15, 17, 18 and 19 as being anticipated by Zhao. Initially, Applicants note that Zhao has a filing date of March 12, 2008, and claims priority to a continuation application filed May 3, 2004, which in turn claims priority to a provisional patent application filed May 6, 2003. The present application, on the other hand, has

a filing date of March 10, 2004. The present application therefore has a filing date before the filing date of Zhao on March 12, 2008, as well as the filing date of the continuation upon which Zhao claims priority (i.e., May 3, 2004). Accordingly, Zhao is only prior art for the subject matter that was first disclosed by its provisional patent application. By way of example, the content of the Zhao provisional application that is carried over into the cited Zhao publication may be considered prior art. Subject matter that is newly added in the cited Zhao publication or the continuation from which it claims priority, and that was not disclosed by its provisional application, is not prior art relative to the present application.

According to one aspect of the claimed invention, as reflected by amended independent Claim 1, an apparatus is provided that includes a processor and a memory storing executable instructions that in response to execution cause the apparatus to at least perform a number of functions. As recited, these functions include subscribing to a push service from the apparatus operating in a public network across from a mobile network or a private network within which another apparatus is operating, where subscribing to a push service comprises subscribing to a push service on behalf of the other apparatus. The functions also include receiving push content at the apparatus in accordance with the push service; and initiating, from the apparatus, a data session with the other apparatus in response to receiving the push content to thereby direct the other apparatus to establish a data session with the apparatus. In addition, the functions include registering the other apparatus in with the apparatus accordance with establishment of the data session, and sending the push content to the other apparatus based upon the registration.

In contrast to amended independent Claim 1, Zhao does not teach or suggest an apparatus effectuating a push service on behalf of another apparatus, where in response to receiving push content in accordance with the service, the apparatus initiates a data session (a network-initiated data session) with the other apparatus to direct the other apparatus to establish a data session with the apparatus to enable the other apparatus to receive the push content. Zhao does appear to disclose push servers configured to push content to a wireless data device, which may pass through a Packet Data Serving Node (PDSN). But in no instance does Zhao disclose that its PDSN or any other network node initiates a data session with the wireless data device to direct establishment of a data session and enable that device to receive the pushed content, similar to

the apparatus of amended independent Claim 1. And in no instance does Zhao disclose that its PDSN or any other network node initiates a data session in response to receiving push content, also similar to amended independent Claim 1. Rather, Zhao repeatedly discloses its wireless data device, and not the network, initiating a data session. *See* Zhao, paragraph [0036], [0055], [0059].

Applicants therefore respectfully submit that amended independent Claim 1, and by dependency Claims 2-7, is patentably distinct from Zhao. Applicants also respectfully submit that amended or new independent Claims 8, 15 and 22 recite subject matter similar to that of amended independent Claim 1, including the aforementioned effectuating a push service on behalf of an apparatus including, in response to receiving push content in accordance with the service, initiating a data session with the other apparatus to direct establishment of a data session with the other apparatus. Thus, Applicants also respectfully submit that amended or new independent Claims 8, 15 and 22, and by dependency Claims 9-14, 16-21 and 23, are patentably distinct from Zhao, for at least the same reasons as those provided above with respect to amended independent Claim 1.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 1, 3-5, 8, 10-12, 15, 17, 18 and 19 as being anticipated by Zhao is overcome.

***C. Claims 2, 9 and 16 are Patentable***

The Official Action rejects Claims 2, 9 and 16 as being unpatentable over Zhao, in view of Gielow. As explained above, amended or new independent Claims 1, 8, 15 and 22, and by dependency Claims 2-7, 9-14, 16-21 and 23, are patentably distinct from Zhao. Applicants respectfully submit that Gielow does not cure the deficiencies of Zhao. That is, even considering Gielow, neither Zhao nor Gielow, taken individually or in any proper combination, teaches or suggests effectuating a push service on behalf of an apparatus including, in response to receiving push content in accordance with the service, initiating a data session with the other apparatus to direct establishment of a data session with the other apparatus. And there is no apparent reason for one skilled in the art still to combine the teachings of Zhao and Gielow to disclose the claimed invention. Thus, for at least the foregoing reasons, amended or new independent Claims

1, 8, 15 and 22, and by dependency Claims 2-7, 9-14, 16-21 and 23, are also patentably distinct from Zhao and Gielow, taken individually or in any proper combination.

Applicants accordingly submit that the rejection of Claims 2, 9 and 16 as being unpatentable over Zhao, in view of Gielow is overcome.

***D. Claims 7, 14 and 21 are Patentable***

Finally, the Official Action rejects Claims 7, 14 and 21 as being unpatentable over Zhao, in view of El-Beik. As explained above, amended or new independent Claims 1, 8, 15 and 22, and by dependency Claims 2-7, 9-14, 16-21 and 23, are patentably distinct from Zhao. Applicants respectfully submit that El-Beik does not cure the deficiencies of Zhao. That is, even considering El-Beik, neither Zhao nor El-Beik, taken individually or in any proper combination, teaches or suggests effectuating a push service on behalf of an apparatus including, in response to receiving push content in accordance with the service, initiating a data session with the other apparatus to direct establishment of a data session with the other apparatus. And there is no apparent reason for one skilled in the art still to combine the teachings of Zhao and El-Beik to disclose the claimed invention. Thus, for at least the foregoing reasons, amended or new independent Claims 1, 8, 15 and 22, and by dependency Claims 2-7, 9-14, 16-21 and 23, are also patentably distinct from Zhao and El-Beik, taken individually or in any proper combination.

Applicants further note that, with respect to El-Beik, the disclosure relied upon by the Official Action for disclosing various elements of the claimed invention is not prior art to the present application, and can therefore not be properly cited against the claimed invention. In this regard, El-Beik has a filing date of August 13, 2004, and claims priority from two provisional patent applications filed August 15, 2003, and April 8, 2004. Again, the present application, on the other hand, has a filing date of March 10, 2004. The present application therefore has a filing date before the filing date of El-Beik on August 13, 2004, and before the filing date (i.e., April 8, 2004) of one of the provisional applications from which El-Beik claims priority. Accordingly, El-Beik is only prior art for the subject matter that was first disclosed by its provisional patent application filed August 15, 2003. By way of example, the content of the 2003 El-Beik provisional application that is carried over into the cited El-Beik publication may be considered

prior art. Subject matter that is newly added in the either the 2004 provisional or the cited El-Beik publication that was not disclosed by the 2003 provisional application is not prior art relative to the present application.

In order to determine the relevance of the El-Beik publication to the claimed invention, Applicants obtained and reviewed a copy of the 2003 provisional application from the USPTO's public PAIR Web portal. In rejecting dependent Claims 7, 14 and 21, the first Official Action cites El-Beik for disclosing a Session Initiation Protocol (SIP) proxy. The 2003 El-Beik provisional application, however, is silent as to any SIP proxy allegedly disclosed by the El-Beik publication. Applicants therefore respectfully submit that El-Beik is not prior art to at least the features of dependent Claims 7, 14 and 21, and that those claims are additionally patentable over the cited references for this reason.

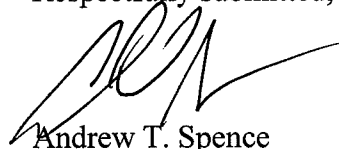
Applicants accordingly submit that the rejection of Claims 7, 14 and 21 as being unpatentable over Zhao, in view of El-Beik is overcome.

**CONCLUSION**

In view of the amendments to the specification and claims, the added claims and the remarks presented above, Applicants respectfully submit that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Andrew T. Spence  
Registration No. 45,699

**Customer No. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111  
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